IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

C.R. No.4989 of 2005

Date of Decision:11.9.2006.

Alimuddin and others

....Petitioners.

Versus

Gram Panchayat Khandawali and others

...Respondents.

CORAM : Hon'ble Mr. Justice Surya Kant.

Present:- Mr.Lokesh Sinhal, Advocate
for the petitioners.

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Mr.Ashwani,Advocate,
for the respondents.

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SURYA KANT, J.(ORAL)

This revision petition has been preferred against the order dated 6.9.2005 passed by Civil Judge (Junior Division), Faridabad, whereby an application moved by the plaintiff/petitioners, to produce additional evidence, has been dismissed.

The petitioners have filed a suit for declaration to the effect that the resolution passed by the Gram Panchayat on 9.8.1991, in respect of exchange of its land with defendant No.3 and subsequent approval there of by the competent authority, are illegal, null and void. When both the parties had already led their evidence and the case had matured for arguments, the plaintiff/petitioners moved this application to lead additional evidence comprising of -

(i) Valuation Report-cum-Certificate dated 14.3.1996 whereby the Collector had assessed the value of some piece of land of the village;

(ii) The Sale deed dated 27.8.2004 pertaining to the same village;

The aforesaid application, however, has been dismissed by the Learned Trial Court, primarily on the ground that after deletion of Order 18 Rule 17(A) from CPC, their exists no provision under which permission to lead additional evidence can be granted.

Aggrieved, the petitioners have preferred this revision petition.

I have heard learned counsel for the parties and perused the impugned order.

The powers of the court to take additional evidence, notwithstanding the deletion of Order 18 Rule 17(A) from CPC, has been duly recognised by the Apex Court in Salem Advocate Bar Association, Tamil Naidu Versus Union of India, (2005)6 SCC 344, though such power can be exercised on satisfaction of certain conditions, duly explained in the judgment itself.

As to whether the petitioners have satisfied the pre-conditions which may entitle them to lead additional evidence or not, it may be noticed that they could possibly have no knowledge of the Valuation Certificate-cum- Report dated 14.3.1996, which was prepared by the Collector, Faridabad, as the petitioners were neither instrumental in

getting the said report prepared nor were associated in any manner with the office of the Deputy Commissioner-cum-Collector. Moreover, the exchange of land of the Gram Panchayat was with the land of defendant No.3 whose son was Sarpanch at that time. The petitioners, thus, had no excess to the records of the Gram Panchayat.

As regard to the Sale Deed dated 27.8.2004, it is argued by learned counsel for the petitioners that the same is per-se admissible and it has a material bearing on the merits of the case, particularly for determining the market value of the land of the Gram Panchayat which has been given in exchange to defendant No.3.

Learned counsel for respondent No.3 however, contends that the said Valuation certificate-cum-Report is totally irrelevant for resolving controversy in the present case as it pertains to some other piece of land in the village. It is also argued that the sale-deed of the year 2004 cannot be relied upon in a case which pertains to an Exchange of Land in the year 1995.

Having regard to the rival contentions noticed above, I am of the view that so far as Valuation Certificate-cum-Report dated 14.3.1996 is concerned, it might be of some relevance and may facilitate in the proper and just adjudication of the suit as it is stated to be relating to almost the same period when the impugned exchange had taken place. Since the petitioners had apparently no previous knowledge of the Valuation Certificate, they should be permitted to produce the same in additional

evidence. However, so far as the sale deed dated 27.8.2004 is concerned, it was executed after a period of over nine year after the impugned exchange of land had taken place and, thus, cannot be relied upon to determine the market value of the exchanged land.

For the reasons aforesaid this petition is partly allowed to the extent that the plaintiff/petitioners are permitted to produce the Valuation Certificate-cum-Report dated 14.3.1996 as an additional evidence. However, the defendant/respondents shall be entitled to lead evidence in rebuttal, if they so desire. Their plea that the said report pertains to another piece of land and has no bearing on the merits of the present case, is left open and shall be gone into by the Trial court. As regard to production of Sale Deed dated 27.8.2004, the prayer of the petitioners is declined.

Disposed of.

(SURYA KANT)
JUDGE

Sept 11,2006.
Reema